

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JONATHON LEE HUDSON,

Petitioner,

Case No. 1:07-cv-1155

v.

Honorable Paul L. Maloney

WILLIE O. SMITH,

Respondent.

ORDER TO FILE SECOND AMENDED PETITION

This is a habeas corpus action filed by a state prisoner pursuant to 28 U.S.C. § 2254. On November 16, 2007, Petitioner filed his original application for habeas corpus relief. On December 21, 2007, the Court ordered Respondent to answer. After Respondent complied with the order and filed the state-court materials required under Rule 5 of the Rules Governing Section 2254 Cases in the United States District Courts, Petitioner sought a stay to exhaust new claims in the state courts. On March 26, 2009, the Court issued an order staying this action and administratively closing the case pending exhaustion of Petitioner's new claims in the state courts. On April 25, 2011, Petitioner filed an amended petition (docket #28) in this Court because he exhausted his state-court remedies as to his new grounds for habeas corpus relief. As Petitioner has now exhausted his state-court remedies, the Court will reopen his case for further proceedings.

In his amended petition, Petitioner only raised the grounds that he brought before the state courts in his motion for relief from judgment. Petitioner did not re-assert any of the grounds for habeas corpus relief that he presented in his original petition. Because it is unclear which

grounds Petitioner intends to raise, the Court will order Petitioner to file a second amended petition on the form provided by the Court. *See* Rule 2(d), RULES GOVERNING § 2254 CASES; W.D. Mich. LCivR 5.6(a). **The second amended petition will take place of all previously filed petitions, and, thus, must include all of the grounds for habeas corpus relief that Petitioner intends to raise.** To assist Petitioner, the Court directs the Clerk to send to Petitioner a copy of the form petition under 28 U.S.C. § 2254 for writ of habeas corpus by a person in state custody. Petitioner must submit his second amended petition on the requisite form within 28 days from the date of entry of this order. The case number shown above must appear on the front page of the second amended petition. Petitioner must file an original and one complete copy of the second amended petition and any new attachments. Petitioner need not re-submit supporting materials filed with the previous petitions. If Petitioner fails to submit a second amended petition in proper form within the time allowed, the second amended petition may be dismissed without prejudice by the Court. Accordingly,

IT IS ORDERED that Petitioner's action is **REOPENED** for further proceedings.

IT IS FURTHER ORDERED that Petitioner shall file a second amended petition on the form provided by the Court within 28 days from the date of the entry of this order. Petitioner's failure to submit a second amended petition in proper form within the time allowed may result in dismissal of his action without prejudice.

Dated: October 17, 2011

/s/ Paul L. Maloney
Paul L. Maloney
Chief United States District Judge